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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 HOUTAN PETROLEUM, INC.) Case No. 3:07-cv-5627 SC
12 Plaintiff,)
13 vs.)
14 CONOCOPHILLIPS COMPANY, a Texas)
corporation and DOES 1 through 10,)
15 Inclusive)
16 Defendants.)
17 _____)
18)
19)
Case No. 3:07-cv-5627 SC
CONOCOPHILLIPS COMPANY'S
MOTION IN LIMINE NO. 5
RE: EXCLUSION OF REFERENCES TO
OR EVIDENCE OF SIZE, PROFITS OR
WEALTH OF CONOCOPHILLIPS
COMPANY
Pretrial Conference: February 6, 2008
Time: 10:00 a.m.
Courtroom: 1
Before: Hon. Samuel Conti
Trial Date: February 11, 2008

20 Defendant and Counter-Plaintiff ConocoPhillips Company (“ConocoPhillips”) hereby
21 moves in limine for an order excluding presentation to the jury of any evidence of the size,
22 profits and wealth of any ConocoPhillips defendant, affiliate, officer or principal.

23 I. ARGUMENT

24 ConocoPhillips is an international company. It is the third-largest integrated energy
25 company in the United States, based on market capitalization and oil and natural gas proved
26 reserves and production; and the second-largest refiner in the United States. ConocoPhillips
27 operates in more than 40 countries and has 38,400 employees worldwide and assets of \$165
28 billion. Houtan Petroleum, Inc., on the other hand, is a much smaller, local business.

1 Evidence of a party's wealth is irrelevant to the issue of liability. "It has been widely
2 held by the courts that have considered the problem that the financial standing of the defendant is
3 inadmissible as evidence in determining the amount of compensatory damages to be awarded."
4 *Geddes v. United Financial Group* (9th Cir. 1977) 559 F.2d 557, 560. Such evidence "injects
5 into the damage determination a foreign, diverting and distracting issue which may effectuate a
6 prejudicial result." *Id.*

7 Moreover, the PMPA explicitly provides that a claim for punitive damages under the
8 PMPA is determined by the Court, not a jury. 15 U.S.C. § 2805(d)(2). Thus, in the event any
9 portion of the case is tried to a jury, it would be improper to discuss ConocoPhillips' size,
10 profits, or wealth in the presence of the jury. Such information is highly prejudicial and has no
11 probative value to any issue to be determined by the jury.

12 II. CONCLUSION

13 For the above reasons, ConocoPhillips respectfully requests that the Court issue an order
14 prohibiting any reference to the size, profits or wealth of any ConocoPhillips defendant, affiliate,
15 officer or principal in the presence of the jury, if any.

16 Dated: January 29, 2008

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